

Remarks

Claims 1-4, 6-10, and 14-24 were pending in the application. Claims 1-4, 6-10, and 14-24 were rejected. Claim 10 was previously withdrawn. No claims were merely objected to and no claims were allowed. By the foregoing amendment, no claims are canceled, claim 8 is amended, and no claims are added. No new matter is presented.

Claim Rejections-35 U.S.C. 103

Claims 1-4, 6-8, and 14-24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter, Jr. (US5494004) in view of Phillips (US1599283) and Cooke (US1380358). Applicants respectfully traverse the rejection.

Regarding claim 6, there has been no articulation of how "the supports are considered to accommodate longitudinal expansion and/or contraction..." as is recited at lines 3&4 of page 4 of the Office action. This is merely conclusory. What longitudinal expansion and/or contraction is being asserted and how are the supports (the asserted axles of Hunter, Jr.) configured to accommodate this?

Regarding claims 7 and 12, no support has been provided for the assertion that each axle and its associated wheels constitute a trolley. At best, the combined pair of axles of Hunter, Jr. constitutes a single trolley.

Regarding the multiple trolleys of claim 7 and the separable segments of claim 8, it was further asserted that the claim was met "by simply duplicating the detonative cleaning assembly... where each assembly is at least arranged adjacent another, for instance side-by-side." This is clearly unreasonable, asserting two entirely separate apparatus against the claimed apparatus. For further distinction, claim 8 has been amended to identify the end-to-end assembly of the present figures. Citation of "mere duplication of parts" is clearly therefore inapplicable.

Turning now to the combination, Phillips discloses a system which is supported only via the wall (see FIG. 1 of Phillips). The Office cited the links 30 which hold the cleaning tube "in position and prevent accidental removal therefrom when in operation while permitting proper movements." Page 1, lines 90-93. The Office admitted that "Phillips does not expressly disclose this links to be resilient or specifically tension springs or tension springs with an additional strap in series." Office action, page 5, third and fourth lines from the bottom.

Cooke discloses a recoilless gun "capable of being operated from more or less fragile

mounts, such for example as acroplanes, seaplanes, and light-gun carriages which could not withstand the recoil forces of ordinary guns." The Office cited elements 27 of Cooke which are opposed springs acting on a depending link 11 which supports the gun. The Office then asserted the catch "hooks (4)" of Phillips to be the claimed straps.

It was then asserted as having been obvious "to modify the cleaning apparatus of Hunter to incorporate the resilient restraining mechanism as suggested by Phillips and Cooke, for the desirable purpose of maintaining the cleaning device in proper position during its operation (see each of Phillips, page 1, lines 87-93 and Cooke, page 2, lines 55-61)." Office action, page 6, lines 10-13.

This is clearly deficient in several aspects. First, no sufficient support has been asserted for interpreting the hooks 4 as straps. This is clearly unreasonable. Furthermore, no basis has been provided as to why, even if a combination was obvious, that combination would include the hooks rather than simply have the same connection that Cooke does.

Furthermore, the relatively different support situations have not been considered. Hunter, Jr. (and the claimed trolley situation) involves supporting on the ground. This is different both from Phillips (supporting exclusively from the vessel wall) and Cooke (suspending below a fragile airplane, etc. These are three different situations involving different considerations.

There is no support for the any assertion that one would have found Hunter, Jr. deficient, let alone in such a way as one would find a solution in Phillips and Cooke with an expectation of success.

This is not merely a case of applying a recent development already used to modify one similar device to similarly modify another. "Applying modern electronics to older mechanical devices has been commonplace in recent years." *Leapfrog Enterprises Inc. v. Fisher-Price Inc.*, ___ F.3d ___, 82 USPQ2d 1687, 1691 (Fed. Cir. 2007). "There then was a marketplace creating a strong incentive to convert mechanical pedals to electronic pedals, and the prior art taught a number of methods for doing so." *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 127 SCt 1727, ___, 167 LEd2d 705, ___, 82 USPQ2d 1385, 1390 (U.S. 2007).

The present case is clearly distinguished for example from that of *KSR* and *Leapfrog*. The present inventors have not simply modified one sootblower in a similar way to which the recent prior art has modified similar sootblowers. To a great extent, *KSR* and *Leapfrog* deal with obvious subject matter wherein the obviousness arose too recently for a convenient anticipatory

reference to be found.

The present secondary references (more particularly the elements/teachings for which they are cited) is also not recent. Thus, the art has had more than sufficient time to have adopted those elements/teachings but has not done so. Thus, unlike *KSR* and *Leapfrog*, had the invention been obvious, one would clearly have expected an anticipatory reference to have arisen in the passage of time.

Unlike *KSR* and *Leapfrog*, the Office action did not identify a recently-arisen prior art need (e.g., a strong market incentive) that would similarly give reason for the modification.

Claim 9 was rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter, Jr., Phillips, and Cooke, and further in view of Freund (US4218016). Applicants respectfully traverse the rejection.

The rejection suffers the same deficiency as does the underlying rejection based upon Hunter, Jr., Phillips, and Cooke and Freund does not cure this. Freund, however, involves a totally different form of soot blower construction than does Hunter, Jr. In particular, Freund involves a particular form of steam lance. No sufficient analogy has been demonstrated to support the asserted substitution.

Double Patenting

Claims 1-4, 6-8, and 21-24 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 7 of copending application 10/733,556. Applicants respectfully traverse the rejection.

In view of the abandonment of the '556 application, the rejection is moot.

Claims 1-4, 6, 9, and 21-24 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 14 of copending application 10/733,544 in view of Phillips (US1599283) and Cooke (US1380358). Applicants respectfully traverse the rejection.

First, the rejection suffers the same deficiency in the *prima facie* case as does the 35 U.S.C. 103 rejection above.

Second, there was merely the conclusory assertion that the rejected claims and claims 1

and 14 of the '544 application "are claiming the same invention... with the exception of the recitation of a resilient means and its structure and arrangement." A detailed analysis (e.g., including *Graham v. John Deere* factors) has not been undertaken by the Office. The Office applied the one way obviousness test which permits the Office to not have to find the present claims as having various elements in the claims of the cited application which are non-obvious over the present claims. However, no basis has been articulated by which the Office is permitted to ignore those elements in determining the obviousness of the combination. For example, the claims of the cited application specify a relative vertical movement situation not specified in the claims of the present application. It has not been established that the proposed modification in view of Phillips/Cooke would be relevant to that situation.

Accordingly, Applicants submits that claims 1-4, 6-10, and 14-24 are in condition for allowance. Please charge any fees or deficiency or credit any overpayment to our Deposit Account of record.

Respectfully submitted,

By /William B. Slate, #37238/
William B. Slate
Attorney for Applicant
Reg. No.: 37,238

Telephone: 203-777-6628
Telefax: 203-865-0297

Date: 05-22-2008